

Message Text

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SUBJECT: DIPLOMATIC CONFERENCE OF AIR LAW

REF: OSLO 2689, STATE 157121

THE NORWEGIAN MINISTRY OF JUSTICE HAS PREAPRED THE FOLLOWING
DRAFT PROPOSAL TO BE SUMMITTED TO THE INTERNATIONAL AIR LAW
CONFERENCE, MONTREAL, SEPTEMBER 1975. BEFORE NORWAY SUBMITS
THE PROPOSAL TO THE CONFERENCE, IT IS INTERESTED IN HAVING
BEFORE 1 AUGUST 1975 ANY COMMENTS ON THE IDEAS IN THE DRAFT
AND INDICATIONS OF INTEREST IN CO-SPONSORSHIPING A PROPOSAL
OF THIS KIND.

THREE TECHNICAL ANNEXES MENTIONED IN THE DRAFT HAVE NOT BEEN
INCLUDED, AND THE AMOUNTS EXPRESSED IN SPECIAL DRAWING RIGHTS
HAVE NOT BEEN ROUNDED OFF. THE DRAFT FOLLOWS BELOW:

1) TO AMEND ARTICLE 22 PARAGRAPHS 2 A) AND 5 OF THE
WARSAW-HAGUE CONVENTION IN THE NEW INSTRUMENT ON CARGO,
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2) TO INCLUDE ON THE AGENCA FOR THE INTERNATIONAL CONFERENCE THE QUESTION OF AMENDING THE WARSAW CONVENTION, THE HAGUE PROTOCOL AND THE GUATEMALA CITY PROTOCOL WITH RESPECT TO THE EXPRESSION OF THE LIMITATION AMOUNTS IN THE INSTRUMENTS.

3) TO SUBSTITUTE SPECIAL DRAWING RIGHTS FOR FRANCS IN THESE INSTRUMENTS.

1. THE LIMITS OF LIABILITY SET OUT IN THE WARSAW CONVENTION AND IN THE PROTOCOLS THERETO ARE EXPRESSED IN POINCARE-FRANCS. THIS FRANC CORRESPONDS TO A SPECIFIED AMOUNT OF GOLD. - THE LIMITS SET OUT IN THESE INSTRUMENTS HAVE TO BE CONVERTED INTO NATIONAL CURRENCIES. FOR THIS PURPOSE THE INSTRUMENTS PROVIDE THAT CONVERSION OF THE SUMS INTO NATIONAL CURRENCIES SHALL IN CASE OF JUDICAL PROCEEDINGS, BE MADE ACCORDING TO THE GOLD VALUE OF SUCH CURRENCIES AT THE DATE OF THE JUDGMENT. THE USE OF GOLD AS A UNIT OF ACCOUNT PRESUPPOSES THE EXISTENCE OF A VALUE OF GOLF IN TERMS OF THE CURRENCY OF EACH CONTRACTING STATE. THIS ALREADY GIVES RISE TO DIFFICULTIES IN SOME COUNTRIES. PROPOSALS TO ABOLISH THE OFFICIAL PRICE OF GOLD ARE UNDER STUDY IN THE INTERNATIONAL MONETRAY FUND; IF, AS SEEMS LIKELY THIS IS CARRIED OUT, THERE WILL BE, NO LONGER AN INTERNATIONALLY RECOGNIZED OFFICIAL VALUE OF GOLD.

THE REUSLT COULD BE THAT CONVERSION OF FRANCS INTO NATIONAL CURRENCIES IN MANY COUNTRIES WOULD HAVE TO BE MADE ON THE BASIS OF THE SO-CALLED FREE MARKET PRICE OF GOLD. THIS PRICE IS AT PRESENT ABOUT \$170 PER OUNCE, WHICH WOULD LEAD TO QUADRUPLING THE LIMITS. FOR THESE REASONS THE SPONSORS OF THIS PROPOSAL ADVOCATE THAT THE LIMITS IN THE NEW CARGO PROTOCOL SHOULD BE EXPRESSED IN A UNIT OTHER THAN GOLDFRANCS.

THE REPLACEMENT OF THE GOLD-FRANC WITH ANOTHER UNIT OF ACCOUNT CAN SOLE THE PROBLEM. THE NEW UNIT MUST BE GENERALLY RECOGNIZED, AND A CORRECT DAILY QUOTATION SHOULD BE AVAILABLE. FOR THESE REASONS THE SPONSORS PROPOSE THE USE OF THE SPECIAL DRAWING RIGHT (SDR) AS THE UNIT OF ACCOUNT IN ARI-LAW CONVENTIONS. THE SPECIAL DRAWING RIGHT IS A UNIT OF ACCOUNT ESTABLISHED BY THE INTERNATIONAL

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MONETARY FUND, A SPECIALISED AGENCY OF THE UNITED NATIONS WITH 126 MEMBERS. THE INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA) HAS ALREADY ADOPTED IN PRINCIPLE THE SDRS FOR DETERMING AIR FARES AND ACCOUNTING PRUPOSES.

THE VALUE OF ONE US \$ WAS ON 1 JULY 1975 SDR 0.809985. IN THE PROPOSALS UNDER 3 BELOW THE PRESENT LIMITS HAVE BEEN EXPRESSED IN SDRS EQUALING THE LIMITS IN POINCARE-FRANCS. THE CONVERSION HAS BEEN MADE ON THE BASIS OF THE GOLD-VALUE

OF SDR BEFORE JULY 1, 174.

2. IN THE NEW CARGO PROTOCOL ARTICLE 22 PARAGRAPH 2 A)
OF THE WARSAW CONVENTION AS AMENDED BY THE HAGUE
PROTOCOL SHOULD BE AMENDED TO READ: "IN THE CARRIAGE
OF CARGO, THE LIABILITY OF THE CARRIER IS LIMITED TO A
SUM OF SPECIAL DRAWING RIGHTS PER KILOGRAMME,
....."

AND PARAGRAPH 5 TO READ: "THE SUMS MENTIONED IN SPECIAL
DRAWING RIGHTS IN THIS ARTICLE SHALL BE DEEMED TO REFER
TO THE SPECIAL DRAWING RIGHT AS ESTABLISHED BY THE
INTERNATIONAL MONETARY FUND WITH EFFECT FROM 1 JULY 1974,
AND AS MODIFIED FROM TIME TO TIME. THESE SUMS MAY BE
CONVERTED INTO NATIONAL CURRENCIES IN ROUND FIGURES.
CONVERSION OF THE SUMS INTO NATIONAL CURRENCIES SHALL,
IN CASE OF JUDICIAL PROCEEDINGS, BE MADE ACCORDING TO
THE VALUE OF SUCH CURRENCIES IN TERMS OF SPECIAL DRAWING
RIGHTS AT THE DATE OF THE JUDGMENT. HOWEVER, A STATE
PARTY TO THIS PROTOCOL WHICH IS NOT A MEMBER OF THE INTER-
NATIONAL MONETARY FUND SHALL DETERMINE THE MANNER IN WHICH
THESE SUMS SHALL BE CONVERTED INTO ITS NATIONAL CURRENCY."

3. THE SPONSORS ARE OF THE OPINION THAT IT IS NECESSARY
THAT SIMILAR AMENDMENTS BE MADE TO THE WARSAW CONVENTION,
THE HAGUE PROTOCOL AND THE GUATEMALA CITY PROTOCOL 1) AND
PROPOSE THAT THE QUESTION OF SUCH AMENDMENTS - WHICH ARE
OF A PURELY TECHNICAL NATURE - BE INCLUDED IN THE AGENDA
OF THE INTERNATIONAL CONFERENCE ON AIR LAW TO BE HELD
AT MONTREAL FROM 3 TO 25 SEPTEMBER 1975. THE AMENDMENT
SHOULD BE DONE BY ADOPTING A PROTOCOL TO EACH OF THESE
INSTRUMENTS.

THE TABLE BELOW SHOWS HOW THE LIMITATION AMOUNTS IN THE
THREE INSTRUMENTS WILL HAVE TO BE AMENDED. THE FULL
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TEXT OF THE PROPOSALS ARE TO BE FOUND IN ANNEXES 1-3 TO
THIS DOCUMENT.

FRANCS	SDRS	WARSAW CONV.	HAGUE	GUATEMALA CITY
PROTOCOL	PROTOCOL			
1,500,000	99,502,5		ART.22 PARA.1A)	
250,000	16,583,75		ART.22 P.1	
187,000	12,437,81		ART.42 P.2&3	
125,000	8,291,88	ART.22 P.1		
62,500	4,145,94		ART.22 P.1B)	
15,000	995,03		ART.22 P.1C)	
5,000	331,68	ART.22 P.3	ART.22P.3	
250	16,58	ART.22 P.2A)	ART.22 P.2A)	ART.22P.2A)

1) A SIMILAR AMENDMENT SHOULD ALSO BE MADE TO THE ROME-CONVENTION.

HOWEVER, AS THE LEGAL COMMITTEE IS PRESENTLY STUDYING THIS CONVENTION,

IT HAS NOT BEEN INCLUDED BELOW.

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